GOVERNMENT OF MYSORE.

LABOUR AND MUNICIPAL ADMINISTRATION DEPARTMENT (LABOUR)

Labour Dispute.—Industrial Dispute between the Workmen and the Management of The Scindia Steam Navigation Co. Limited, Bunder, Mangalore.

Award of the Labour Court, Hubli—Published.

Read the following papers :

(i) Letter No. 27/66-67/1371, dated 5th November 1966, from Shri Syed Azizuddin Ahmed, Presiding Officer, Labour Court, Hubli.

IN THE LABOUR COURT AT HUBLI.

Dated 5th November 1966.

Reference (ID) (LCH) No. 27 of 1966.

Present :

Sri Syed Azizuddin Ahmed, M.A. B.L., ... *Presiding Officer.*

Between :

The Workmen of the Scindia Steam Navigation Co., Ltd., Bunder, Mangalore, represented by The Secretary, Port and Dock Workers' Union, Felix Pai Bazaar, Mangalore-1.

... *First Party.*

AND

The Management of The Stindia Steam Navigation Co., Ltd., Bunder, Mangalore.

... *Second Party.*

This is a reference u/s. 10(1)(c) of the Industrial Disputes Act, 1947, made by The Government of Mysore in their Order No. PLM 369 LLD 65, dated 23rd May 1966. The points of Dispute referred for adjudication are as under :—

1. Are the Management of Scindia Steam Navigation Co., Mangalore justified in refusing to fix the scales of pay of Tindels at Rs. 90-3-120, Seamen at Rs. 75-1-85-2-95 and Oilmen at Rs. 78 2-104 with effect from 1st July 1964?

If not, to what scales of pay are the workmen entitled?

2. Are the Management of Scindia Steam Navigation Co., Mangalore justified in refusing for payment of D.A. to their workmen at Rs. 40/- p.m. from 1st July 1964?

If not, to what quantum of D.A. the workmen are entitled?

3. Are the said Management justified in refusing sanction of five and two weightages of increments to employees having five years service and less than five years of service respectively ?

If not, to what other relief the workers are concerned?

2. The cause of the aggrieved workmen has been sponsored and espoused by The Port and Dock Workers' Union, Felix Pai Bazaar, Mangalore-1, represented by its Secretary. Sri D. Mohun Rau, Vice-President of the union appeared for the I Party while Sri K. S. Rao, President of the General Managements' Association, Mangalore appeared for the II Party management.

3. In response to the Notices issued by the Court, the I Party filed its Claim-Statement, dated 21st June 1966 while the II Party, its Counter-Statement dated 16th July 1966.

4. The sum and substance of the Claim-Statement is that the present pay granted to the three categories of workmen Tindels, Seamen and Oilmen has been there since 1st June 1962 without any increase. All the employees of the II Party are having scales of pay and it is only the few workmen at Mangalore, who do not have the said facilities. In the interest of social justice and industrial peace, a scale of pay is essential for them also. The employees of the Mangalore Port Trust are having a scale of pay and it has been refixed as from 1st June 1964. Serang Grade II of the Port Trust is the same as the Tindel of the I Party. Seamen are the same. Greaser of the less Port Trust is the same as Oilmen of the I Party. The pay-scales now paid for are the same as obtained in the Mangalore Port Trust. In other comparable institutions also there are pay-scales or regular increments. The pay-scales may be made effective as from 1st July 1964 as that was the relevant date of termination of the previous award. The present fixed rate of Dearness Allowance is being given from 1st June 1962. It is a well-known fact that cost essential commodities has increased by leaps and bounds.

Even though Rs. 40 D.A. will not neutralise fully the increase in the cost of living, the I Party restricts its claim to that limit for the present. The weightage prayed for is necessary and just in case the scales of pay are granted.

5. The management resisted the claim of the I Party. It pleaded *inter alia* that the present dispute is not an Industrail Dispute as defined in Section 2 (k) of the Industrial Disputes Act, 1947 and therefore, the reference of this dispute is invalid and bad in law. Jahaji Mazdoor Union represents crew engaged on Home Trade vessels and workers of company's launches and boats at ports on West Coast of India. It is recognised by the Government of India as the sole representative Trade Union of these crew. It has entered into an agreement with Management Head Office, Bombay, with regard to wages and D.A. payable to workmen of this category. Similar workers at other ports at Karwar, Bhatkal and Malpe have received the wages and D.A. as agreed by the Jahaji Mazdoor Union, Bombay from time to time. The aggrieved workmen were offered the same agreed wages and D.A. before the Conciliation Officer, Mangalore, but they refused to accept the same without any valid reason. It was an increase of Rs. 7-50 in wages and Rs. 5 in D.A p.m. with effect from 1.6-1964. When the workers similarly employed elsewhere in the State as well as in Konkan and Sourashtra have accepted the wages and D.A. settled by the said Union, the aggrieved workmen, who are eight in number cannot compel the management to pay them wages and D.A. higher than those accepted by the union or to fix the scales of pay separately for them. The union has not stated why there should be a scale of pay for those eight workmen. There is no rational basis for this claim. The present financial condition of the management does not permit them to meet the claims of the workmen. The management cannot discriminate between one set of workmen and the other. The question of granting the pay scale or giving weightage does not arise. The I Party examined in all two witnesses and exhibited two documents while the II Party examined one in rebuttal and got marked four documents as exhibits in the case. In addition to the Points of Dispute stated in the Order of reference, the following issues were raised :

1. Whether the dispute referred to this Court for adjudication is an Industrial Dispute ?
2. Whether the management proves that their present financial condition does not prevent them to meet the demands of the workmen ?

3. Whether the management proves that there has been an agreement with Jahaji Mazdoor Union what are its terms and what is its effect on the present dispute?

FINDINGS.

Issue No 1.—On 17th August 1966 Sri K. S. Rao, the learned representative of the II Party stated that he does press this issue. The same has been recorded in the order-sheet. In view of this, I hold that the present dispute is an Industrial Dispute.

Issues No. 3 and 4—These two issues may, better, be discussed together. The management filed the original agreement Ex-M-1 dated 28th September 1965 entered into between them and the Jahaji Mazdoor Union. With the consent of the I Partv, the original was taken back and a certified copy of the same has been filed Sri V. B. Rawal, Assistant Manager of the II Party. entered the witness-box and deposed regarding its execution. He is one of the attestors to this document. There is no reason to disbelieve his testimony in the absence of any evidence to the contrary. The document speaks for itself. I need not dilate much upon this agreement. I find much force in the contention of Sri Mohun Rau, learned representative of the I Party that this agreementis not binding on the aggrieved Workmen. In this connection reference can well be made to Section 18 (1) of the Industrial Disputes Act, 1947. It runs thus:

> "The settlement arrived at by agreement between the employer and workmen otherwise than in the course of conciliation proceeding shall be binding on the parties to the agreement."

In the instant case, the I Party is not a signatory to this agreement. There is nothing on record to show that the I Party Union is an affiliated body of the Jahazi Mazdoor Union. Such being the case, agreement Ex. M-1 cannot have a binding effect on the aggrieved workmen. But inspite of this. this agreement has got an importance of its own. Seedi Byari, W. W. 1 and Ibrahim, W. W. 2 have deposed that there are five tindels in the five boats of II Party in Mangalore. During the rainy seasons, the boats are drawn to the shore and there will be no trips to the sea. Even after the boats are beached, the tindels have to go to the office. They have to go to the boats carpentary or other repair work is

undertaken on them. Even when steamers do not call at Mangalore, they have to go to the office and bail water from the boats. The boats are open and there will be moveable articles like ropes, anchors and punting poles etc. The Tindels have to keep a watch on the boats and are responsible for the safety of the articles therein. The other witness is a Launch-Driver. He deposed that there are launches in the Mangalore Port Trust also. The work of crew of the launch of the Port Trust and their work is of a similar nature. This is a very straight forward and simple case. There has been an earlier dispute between the workmen and the management of Scindia Steam Navigation Co.. Ltd., Mangalore, which was adjudicated upon by the Presiding Officer, Industrial Tribunal, Bangalore. A copy of the award has been filed and marked Ex. W-1. A peep in this award discloses that the Presiding Officer of the Industrial Tribunal has taken the view that the Port Trust, Mangalore cannot be taken as a comparable Industry. I shall reproduce the relevent excerpt which occurs on page No, 1324 of Ex. W-1. It runs thus:

> "From the above resume of the evidence it is evident that the service composed of the 10 workers in question (exclusive of the Driver and one Tindal of the Launch) is governed by peculiar conditions of its own and is not comparable with either the Shore staff of the company or the floathing crew establishment of the Port Trust in most particulars. No other instances in which facts and circumstances of the type obtaining in this company exist are brought to my notice."

Even today the position remains the same and, therefore, I do not find sufficient reasons to differ from this view. There is no question of the management not being able to pay additional wages and additional D.A. to the aggrieved workmen. Their case is that vast majority of their workman working in other ports have accepted the increase of Rs. 7—50. in wages and Rs. 5 in D.A. per month with effect from 1st June 1964. They cannot depart from this and treat the aggrieved workmen in a different manner. This would be an invidious distinction and may disturb the present harmony and give rise to further disputes between the management and the workmen in other Ports. Seedi Pyari, W.W.1, towards the close of his cross- examination deposed that four months back, the management told them that each one of them would be paid Rs. 7-50. towards basic-wage and Rs.5-00 towards D.A. They also told them that the staff at Karwar,

Bhatkal and Malpe have accepted the same increase in basic wage and D.A. They refused to accept the offer because the matter was sub-judice. This, more than anything else, discloses that the workmen were not averse to accept the offer made by the management. They seem to have taken the view that as the matter was sub-judice, it was not proper on their part to accept the offer. The other witness stated that they had refused the offer as the increase was not sufficient. It would be wrong on the part of the aggrieved workmen to think that they alone are the victims of rising prices. The vast majority of workmen of the management, who are also the victims of rising prices have accepted the increase of Rs. 7-50 in basic wage and Rs. 5-00 in D. A. p.m. The management cannot be expected to create imbalances and to invite troubles. There is nothing on record to to show that any other concern of a similar nature has offered on incremental scale of pay to their workmen. There appears to be no Justification to have a incremental wage structure for these few workmen alone. The giving of weightage does not arise at all.

AWARD

1. The management of Scindia Steam Navigation Co., Mangalore are justified in refusing to fix the scales of pay of Tindels at Rs. 90-3-120, Seamen at Rs.75-1-85-2-95 and Oilmen at Rs. 78-2-104 with effect from 1st July 1964.

2. The Management of Scindia Steam Navigation Co., Mangalore are justified in refusing for payment of D. A. to their workmen at Rs. 40/-p.m. from 1st July 1964. They shall pay the workmen of the I Party Union an increase of Rs. 7-50 in wages and Rs. 5-00 in D.A. p.m. with effect from 1st June 1964 as stated in paragraph 6 of the Counter Statement.

3. The said management is justified in refusing sanction of five and two weightage of increments to the employees having five years' service and less than five years' service respectively. The parties shall bear their own costs.

Place : Hubli
Date : 5th November 1966.

SYED AZIZUDDIN AHMED,
Presiding Officer,
Labour Court, Hubli.

ANNEXURE

Reference (ID) (LCH) No. 27 of 1966.

Witnesses examined for I Party.

W. W. 1 Seedi Byari S/o Badava Byari

W. W. 2 Ibrahim S/o Hyder

Witnesses examined for II Party:

M. W. 1 V. B. Raval

Documents marked for I Party.

Exhibits

W-1 Industrial Tribunal award in IT. No. 28 of 1957, published in *Mysore Gazette* dated 8th May 1958.

W-2 Proceedings of the Secretary, Mangalore Port Trust, Mangalore. Ref. No. Est-1002/64-1. Revised Scale of pay.

Documents marked for II Party.

M-1 Agreement entered into between the Scindia Steam Navigation Co., Ltd., and The Jahazi Mazdoor Union, dated 28th September 1965

M-2 Copy of wages and other conditions of service of local crew engaged by Party No. II.

M-3 Award of the Labour Court, Hubli in Reference (ID)(LCH) No. 28 of 1962 dated 19th January 1963.

M-4 Copy showing the strength of Crew on Company's Boats and launches at Out-ports dated 1st September 1966.

Place: Hubli
Date: 5th November 1966.

SYED AZIZUDDIN AHMED,
Presiding Officer,
Labour Court, Hubli.